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RUCNIAD/IGAD COLLECTIVE  
RUEHDS/AMEMBASSY ADDIS ABABA 9906  
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RUEHKM/AMEMBASSY KAMPALA 2630  
RUEHKH/AMEMBASSY KHARTOUM 1890  
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C O N F I D E N T I A L SECTION 01 OF 03 NAIROBI 000486

SIPDIS

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FOR S, D, P, G, R, DS, DRL, AND AF A/S FRAZER FROM THE  
AMBASSADOR

E.O. 12958: DECL: 02/14/2018

TAGS: [PREL](#) [PGOV](#) [PHUM](#) [KE](#)

SUBJECT: TALKS FOCUS INTENSIVELY ON POLITICAL ISSUES

REF: A. NAIROBI 444

[1](#)B. NAIROBI 419 AND PREVIOUS

Classified By: Ambassador Michael Ranneberger for reasons 1.4 (b,d)

[1](#)1. (SBU) Summary. Since February 11 the two sides have been engaged in intensive and relatively constructive discussions of modalities for a political solution. Off-site discussions hosted by Annan sincQFebruary 12 adjourned the afternoon of February 14 without an agreement. The talks are expected to resume next week, giving both teams time to consult with their principals. Annan briefed the Parliament, making clear the historic role the members will have to play in carrying out legal and constitutional reforms that may be needed to implement a political solution. Annan has brought in a German expert to brief on the German experience in assembling a "grand coalition." End summary.

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Talks Move to Off-Site; Adjourned Without Agreement  
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[1](#)2. (U) Per ref A, the talks resumed on February 11 to focus on modalities for a political solution. Much of the day was, however, consumed with preparations by the two sides for the briefing of Parliament scheduled by Annan for February 12.

[1](#)3. (U) Following Annan's briefing of Members of Parliament, he took the two sides to an off-site at a national park lodge. Those talks adjourned on February 14 without an agreement. Talks are expected to resume early next week, giving the teams some time to consult with their principals.

[1](#)4. (SBU) Both sides started the political discussions having climbed down from their initial positions, but still far apart. The government has accepted the need for a political settlement. The ODM is no longer calling for a recount or a new election in the short-term. The ODM has put on the table the concept of a power-sharing arrangement involving creation of the position of executive prime minister, fifty percent sharing of government ministries and key positions, and creation of an interim government while institutional reforms are carried out ) at the end of which there could be new elections. The government has indicated openness to giving some ODM members ministerial portfolios, but has made clear its preference is for the ODM to remain as the official opposition, with the two sides working together to carry out institutional reform. During an off-the-record discussion at

the off-site, Karua said the government would be willing to consider 50/50 division of ministries, but not with a strong executive prime minister position. There is an as yet unconfirmed report that the government has indicated willingness to consider new elections within two years once reforms are carried out.

15. (SBU) The government is insisting that any political solution must be within the legal and constitutional framework. This does not, however, rule anything out, since the Parliament can likely constitute itself as a constituent assembly to make any constitutional changes necessary to accommodate a power-sharing arrangement (as would be necessary to establish the position of an executive prime minister, for example).

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Odinga's Views  
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16. (C) Odinga and I discussed the state of play early on February 14, before it was learned that the talks would adjourn. He confirmed that the ODM position is to initiate a power-sharing arrangement under which he would be executive prime minister. This, Odinga stressed, is crucial in order to limit the power of the presidency. Limiting the power of the presidency, he explained, was one of the key objectives contained in the original Bomas draft constitution, but those provisions were taken out by the government before the constitution draft was submitted to the national referendum in 2005, resulting in rejection of the draft. Odinga emphasized to me his view that such a parliamentary system would help limit and control the role of ethnicity in

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politics. Odinga has ruled out taking the vice presidency position, because the vice president is appointed by the President and can be dismissed at any time. Odinga, who spoke by phone with his team at the off-site negotiating location while I was there, said there had been progress in the talks. The government, he said, has accepted the principle of separating the role of head of state from the role of head of government. Odinga was relatively upbeat and expressed great appreciation for U.S. support for the Annan process.

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Annan Briefs Parliament  
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17. (U) An unexpected ruckus resulted from Annan's briefing of the Parliament, highlighting sensitivities on the government side. The Speaker opened the session by emphasizing Parliament's readiness to support a political settlement. He indicated that Members of Parliament are working together across party lines to visit areas affected by violence in order to urge peace and reconciliation. Graca Machel said Kenyans must "redefine the common ground where every Kenyan has a sense of belonging." She said Parliament has an historic responsibility to help support a solution, including any necessary legal or constitutional changes. Annan stressed that the two sides have agreed on the need for a political solution. He also said the two sides have agreed to establish an independent review commission to investigate all aspects of the electoral process and to make recommendations for comprehensive electoral reform. He commented that one possible solution would be a "grand coalition" to carry out institutional reform. Annan indicated he expected a resolution of the political issues this week. Interestingly, according to press reports, the influential Minister of Local Government, Uhuru Kenyatta, commented to the press following the briefing for Parliament that he supports formation of a grand coalition in order to restore unity among Kenyans.

18. (U) Following the briefing, the head of the government's

negotiating team, Martha Karua, wrote a letter to Annan stating: "My team is alarmed at some serious inaccurate statements made by Your Excellency at the briefing of parliamentarians today. Namely you stated that the dialogue team had agreed to have a transitional government for two years after which we shall hold presidential elections which position has not been discussed or agreed upon." At the same time, 75 government and pro-government parliamentarians issued a statement that "the government has not given its mediation team authority to discuss issues of transitional government." The parliamentarians confirmed, however, that the government supports comprehensive legal, constitutional and institutional reforms.

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German Support  
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¶9. (U) During his public statement to Parliament, carried live by the media, Annan never referred to the two-year transitional period and possible new elections, but his reference to a "grand coalition" does reflect his thinking on the direction he would like the talks to take. At Annan's request, a German expert has been here during the past several days to discuss the German experience in forming such a coalition.

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Comment  
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¶10. (C) Odinga's participation in a coalition government as executive prime minister would be a huge pill for Kibaki to swallow. The off-site talks had been expected to continue through the 15th; the unexpected return on the 14th was apparently precipitated by the government side. Whether this indicates a real need to consult further with Kibaki, a desire to delay the talks, or unwillingness to move further on power-sharing is not clear. Annan will likely issue a statement on the 15th. He may be able to indicate some

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progress, but the way in which the two sides characterize the state of play to the media will also be important.  
RANNEBERGER